



PERFORMANCE[®] IMPRESSIONS

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July 14, 2016

(For Settlement Purposes Only, Subject to F.R.E. 408)

Zeno Lancaster
Lancaster Law Firm PLLC
22 Hildebrand St.
Asheville, NC 28801

By Email

Zeno@lancasterlawfirm.com
Attn: Zeno Lancaster

Dear Mr. Lancaster,

Based on my investigation, I have established that Lancaster Law Firm PLLC is infringing on the copyright of my intellectual property by both having made a copies of my work and by displaying them on its website and Facebook account. My photo of the Asheville, NC skyline was displayed at the following URL: <http://www.lancasterlawfirm.com/>. My photo is also currently being used as the cover photo for Lancaster Law Firm LLC's Facebook profile. My company does not have a license on file for Lancaster Law Firm PLLC's uses of my work. I license my photography through my company, Performance Impressions LLC. Be on notice that litigation is likely to occur as a result of Lancaster Law Firm PLLC's copyright infringements of my work. These infringements of my photograph, even if not done deliberately, entitle me to recover enhanced statutory damages because my photograph was originally published with numerous copyright notices including a watermark with legible copyright management information shown below in Exhibit A:



EXHIBIT A

Lancaster Law Firm PLLC's uses of my photograph on its website and Facebook profile are shown below as Exhibits B1-B3:

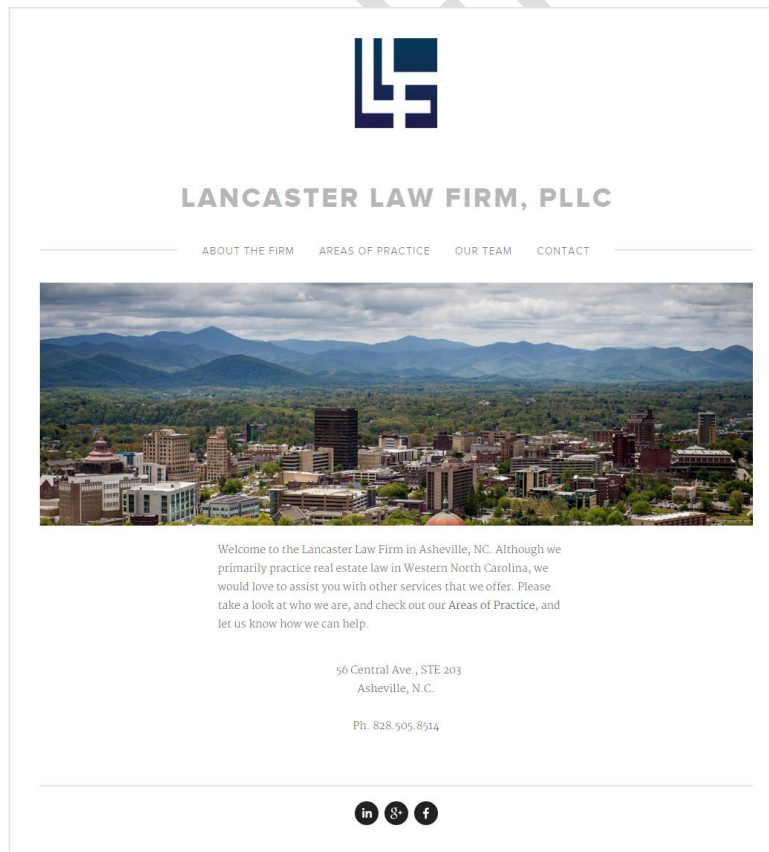


EXHIBIT B1

David G. Oppenheimer | Performance Impressions LLC | PO Box 8105 , Asheville, NC 28814 USA
dave@performanceimpressions.com | www.performanceimpressions.com

phone: 828.273.9339

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EXHIBIT B2

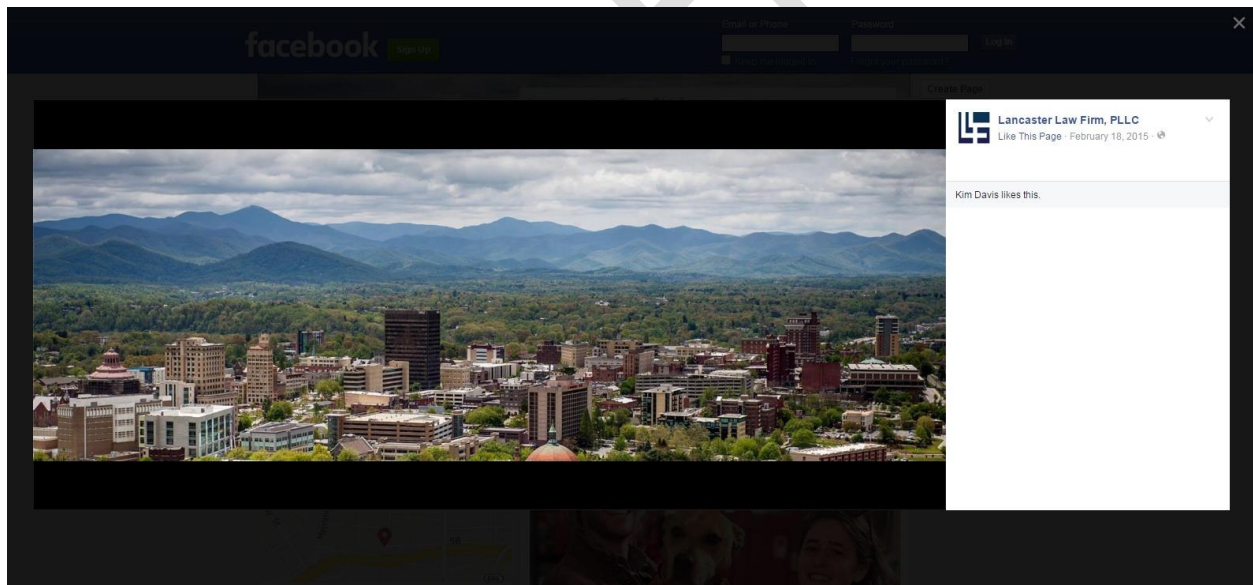


EXHIBIT B3

My website also has numerous copyright notices on the page where the photograph was originally published. Penalties for copyright infringement can be \$30,000 per infringement under 17 USC § 504(c)(1). Additionally, because my work had a prominent notice of copyright, this infringement could be considered reckless, entitling me to recover enhanced statutory damages of up to \$150,000 under 17 USC § 504(c)(2) in addition to being awarded attorney fees.




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My photograph was registered with the United States Copyright Office under registration number VAu 1-140-655 with an effective registration date of May 7, 2013. The certificate is shown below as Exhibit C.

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

 *Maria A. Pallante*
Register of Copyrights, United States of America

Registration Number
VAu 1-140-655

Effective date of registration:
May 7, 2013

Title _____
Title of Work: Bob Dylan and His Band and Travels

Completion/Publication _____
Year of Completion: 2013

Author _____
Author: David Gordon Oppenheimer
Author Created: photograph(s)
Work made for hire: No
Citizen of: United States Domiciled in: United States
Year Born: 1970

Copyright claimant _____
Copyright Claimant: David Gordon Oppenheimer
P.O. Box 8105, Asheville, NC, 28814, United States

Rights and Permissions _____
Organization Name: Performance Impressions LLC
Name: David Gordon Oppenheimer
Email: dave@performanceimpressions.com Telephone: 828-273-9339
Address: P.O. Box 8105
Asheville, NC 28814 United States

Certification _____
Name: David Gordon Oppenheimer
Date: May 7, 2013

SR #
1-931625682

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EXHIBIT C

Because my photograph was registered prior to the start of this infringement, the full protections of applicable copyright laws are in effect.

Lancaster Law Firm PLLC has also violated the Digital Millennium Copyright Act (D.M.C.A.) by removing copyright management information (CMI). Specifically, Lancaster Law Firm PLLC cropped my photograph so that my CMI watermark embedded in the bottom right corner of the photograph was no longer existent. Besides damages for willful infringement and state claims, D.M.C.A. violation is subject to statutory damage awards of up to \$25,000 per photo under 17 USC 1203(c)(3)(B).



Actions Demanded

1. Cease and desist any use of my photograph as shown in Exhibit A including removing my photograph from Lancaster Law Firm PLLC's website, Facebook, and servers so that my photo is no longer online.
2. Provide full details on Lancaster Law Firm PLLC's uses of my photograph shown in Exhibits B1-B3 including the name(s) of all individuals involved with the publishing of my photograph and/or and the names of any other companies involved.
3. Provide details on the use of any other of my photographs known to have been used by Lancaster Law Firm PLLC if applicable.
4. Preserve an accounting of actions taken to comply with Notice to Preserve Documents and Data.

Notice to Preserve Documents and Data

Lancaster Law Firm PLLC is on notice that litigation is likely regarding its actions concerning my photograph. Lancaster Law Firm PLLC is now obligated and has the duty to preserve all evidence that may be relevant to the dispute discussed above and that may be the subject of pending litigation. This duty of preservation extends to, but is not limited to, data files, e-mails (including headers), calendars, telephone logs, access lists, and logs that are located on Lancaster Law Firm PLLC's computer networks, e-mail servers, mainframes, individual computer workstations and external drives, or are located on any of those devices within Lancaster Law Firm PLLC's control but not owned by Lancaster Law Firm PLLC such as the web host. Specifically, but not exclusively, Lancaster Law Firm PLLC is on notice that it must preserve all evidence of all uses of my photograph. This notice for preservation extends to employees' or agents' personal computers or other devices if they have potentially relevant data related to this cause. If Lancaster Law Firm PLLC used other photographs by others without licensing and has decided or decides to remove those works from use, preserve a record of those uses and actions also because it may be relevant to this matter.

Lancaster Law Firm PLLC is required by law to suspend any practice, even a normal or routine practice that might purge, delete, or overwrite any electronic document or other evidence, including database matter and related structural information, files remnants, metadata, residual, and hidden data with the one exception for removing my photograph from Lancaster Law Firm PLLC's online server so that my photograph is no longer available to search engines. This duty extends to Lancaster Law Firm PLLC's employees and agents. I request that you notify any such employee or agent of this retention request immediately. This duty also extends to the preservation of Lancaster Law Firm PLLC's replaced computers, hard drives, and other storage media. If you or anyone employed by you backs up any computer drives, the back-up files must be preserved, as well. I request that you immediately back up and archive any documents, including e-mails and all other communications, between you and all other persons and entities that relate to my photograph.



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I further request that Lancaster Law Firm PLLC suspend any act or practice that would cause defragmentation, compression, or reformatting of those hard drives. If potentially relevant data is encrypted, preservation of serial keys and/or other information needed to access data must also be preserved. All metadata for electronic files that may contain potentially relevant information must be preserved as well. Sanctions for violating any of the foregoing duties can be severe and include substantial monetary sanctions, adverse inferences in evidentiary rulings, and the entry of judgments by default. I remain hopeful that we can resolve this dispute short of litigation. The above duties, however, must be satisfied during any settlement or other discussions that we may have.

Offer to Settle

In an offer to settle this matter outside of litigation, I will release all claims against Lancaster Law Firm PLLC for statutory copyright infringement and potential related claims for its uses of my photograph as shown as Exhibit B, if you send a check for \$22,500 payable to Performance Impressions LLC to this address:

David Oppenheimer
Performance Impressions, LLC
P.O. Box 8105
Asheville, NC 28814

This offer to settle is valid through Friday, August 19, 2016

If other infringing uses of my work(s) occurred, please provide details about such uses in order to resolve those infringement(s) in addition to my above offer to settle for known infringements.

I recommend that you consult with your insurance carrier to see if they will cover this claim. Failure to timely report this matter to your insurance carrier may result in a denial of coverage.

This offer to settle is contingent upon me having to take no further action in this matter. If this offer is not accepted by Friday, August 19, 2016 then litigation may be initiated at any time thereafter without further notice. If you or your insurance carrier needs more time to respond, please contact me to arrange this. My offer to settle does not reflect the amount that I can and will seek should litigation be required to settle this matter, which is many times greater. This letter is without prejudice to my rights and claims which are hereby reserved.

Sincerely,

/s/ David G. Oppenheimer